



July 14, 1999

Ms. Jennifer D. Soldano  
Associate General Counsel  
Texas Department of Transportation  
125 E. 11<sup>th</sup> Street  
Austin, Texas 78701-2483

OR99-1955

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125920.

The Texas Department of Transportation (the "department") received a request for its complete files regarding (1) billboards on Sonoma Corporation's property, and (2) property east of IH 45 for a distance of 4,000 feet. You claim that the requested information is excepted from disclosure under section 552.105(2) of the Government Code. We have considered the exception you claim and reviewed the documents at issue.

Initially, we note that among the documents submitted to this office is a municipal ordinance. For compelling reasons of public policy, publicly-filed documents such as municipal ordinances cannot be withheld from disclosure even if they arguably fall within the scope of one of the exceptions to disclosure found in chapter 552 of the Government Code. *See* Open Records Decision No. 551 at 2-3 (1990). As for the other submitted documents, we will address your section 552.105 claim.

Section 552.105 excepts from disclosure information relating to:

- (1) the location of real or personal property for a public purpose prior to public announcement of the project; or
- (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. Open Records Decision Nos. 564 (1990), 357

(1982), 310 (1982). Because this exception extends to “information pertaining to” the location, appraisals, and purchase price of property, it may protect more than a specific appraisal report prepared for a specific piece of property. Open Records Decision No. 564 at 2 (1990). For example, this office has concluded that appraisal information about parcels of land acquired in advance of others to be acquired for the same project could be withheld where this information would harm the governmental body’s negotiating position with respect to the remaining parcels. *Id.* A governmental body may withhold information “which, if released, would impair or tend to impair [its] ‘planning and negotiating position in regard to particular transactions.’” Open Records Decision No. 357 at 3 (1982) (quoting Open Records Decision No. 222 (1979)). Information excepted from disclosure under section 552.105 may be withheld so long as the transaction is not complete. Open Records Decision No. 310 (1982).

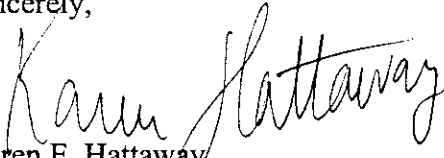
You explain that

The department is in the process of acquiring the land that the billboards are located on, the billboards, and the property east of IH 45 for a distance of 4,000 feet. The information in [the requested] files is taken into consideration when developing the appraisal of the property. The department intends to acquire the parcels that are the subject of this request. The contracts for these referenced properties are pending. This is a 39-parcel project, in which the department is actively seeking the purchase of right of way. None of the parcels have yet closed, and several have been submitted to eminent domain.

Under these circumstances, we conclude that the requested documents are excepted from disclosure pursuant to section 552.105(2) of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

  
Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 125920

Encl. Submitted documents

cc: Mr. William Floyd  
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P.O. Box 629  
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(w/o enclosures)